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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,014	08/06/2003	Claude Leon Hembert	GER-0276-C	1542

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Daniel F. Drexler
CANTOR COLBURN LLP
55 Griffin South Road
Bloomfield, CT 06002

EXAMINER	
GROSSO, HARRY A	

ART UNIT	PAPER NUMBER
3727	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/636,014	HEMBERT, CLAUDE LEON	
	Examiner	Art Unit	
	Harry A. Grosso	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-9 and 11-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-9 and 11-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The rejection of claim 19 under 35 U.S.C. 112, second paragraph, has been overcome by the amendment filed December 22, 2005. The rejection is withdrawn.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1, 3-5, 7, 9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brissier et al (4,815,605) (Brissier) in view of Starling et al (4,573,603) (Starling). Dulisse et al (6,793,095) (Dulisse).

2. Regarding claims 1, and 9, Brissier discloses a container or tank (14, Figure 1) with a dome end and a device (24, column 3, lines 39-46) for protecting the container comprising a shell (28) and a compressible element (30). Brissier does not teach the shell is made of a synthetic resin. Starling discloses a tank with dome ends and a shell (C, D, Figures 1 -3,) that goes the dome ends and is made from a synthetic resin (column 2, lines 34-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a shell that goes over a portion of the dome ends and is made from a synthetic resin as disclosed by Starling in the container disclosed by Brissier because it is known in the art to use a made from a synthetic resin with containers including tanks protect them from shock and provide means for handling.

Regarding claims 4 and 12, Brissier discloses the device covers the entirety of the dome of the container and a portion of the side wall.

Regarding claims 3 and 11, Brissier discloses the compressible element is polyurethane foam (column 3, lines 42-43).

Regarding claims 5 and 13, Brissier discloses the shell has an end corresponding to the side wall of the container, a first wall parallel to an axis of the container and an end corresponding to the dome of the container, a second wall perpendicular to the axis of the container with the first and second walls meeting to form a rounded zone (Figure 1).

Regarding claim 7, Brissier discloses the device is removably mounted on the container (column 3, lines 43-46).

3. Claims 1, 3-9, 11-16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hembert (5,004,120) in view of Brissier and Starling.

Regarding claims 1, 4, 9, 12 and 20, Hembert discloses a container composed of a composite material intended to contain a fluid under pressure (column 1, lines 7-12) with a dome end and a device (column 2, lines 37-51) for protecting the container comprising a shell (22) and a compressible element (23).

Hembert does not teach that the device covers the entirety of the dome of the container and a portion of the side wall. Brissier discloses a container with a protective device that covers the entirety of the dome of the container and a portion of the side wall (24, Figure 1, column 3, lines 39-46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a

protective device that covers the entirety of the dome of the container and a portion of the side wall as disclosed by Brissier in the container disclosed by Hembert to provide protection for the entire dome and adjacent side wall portion against damage.

4. Hembert does not teach the shell is made of a synthetic resin. Starling discloses a tank with dome ends and a shell (C, D, Figures 1 -3,) that goes the dome ends and is made from a synthetic resin (column 2, lines 34-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a shell that goes over a portion of the dome ends and is made from a synthetic resin as disclosed by Starling in the container disclosed by Brissier because it is known in the art to use a made from a synthetic resin with containers including tanks protect them from shock and provide means for handling.

Regarding claims 5 and 13, Hembert does not teach that the shell has an end corresponding to the side wall of the container, a first wall parallel to an axis of the container and an end corresponding to the dome of the container, a second wall perpendicular to the axis of the container with the first and second walls meeting to form a rounded zone. Brissier discloses a device and the shell has an end corresponding to the side wall of the container, a first wall parallel to an axis of the container and an end corresponding to the dome of the container, a second wall perpendicular to the axis of the container with the first and second walls meeting to form a rounded zone (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a protective device with the shell having an end corresponding to the side wall of the container, a first wall parallel to an axis of the

container and an end corresponding to the dome of the container, a second wall perpendicular to the axis of the container with the first and second walls meeting to form a rounded zone as disclosed by Brissier in the container disclosed by Hembert to provide improved protection for the entire dome and adjacent side wall portion against damage.

Regarding claims 3 and 11, Hembert does not disclose the compressible element is an expanded synthetic material. Brissier discloses the compressible element is polyurethane foam (column 3, lines 42-43). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a compressible element of polyurethane foam as disclosed by Brissier in the container disclosed by Hembert to provide a material that is light weight and has known capability to absorb an impact.

Regarding claim 7, Hembert discloses the device is removably mounted on the container (column 2, lines37-45).

Regarding claims 6 and 14, the containers of claims 1 and 9 are disclosed and Hembert further discloses a connecting piece at a top of the dome (6). Neither Hembert nor Brissier nor Dulisse teaches the use of an annular projection on the device having a height such that the annular projection extends beyond the end of the connecting piece. Starling discloses a container with a protective device (40, Figure 2) on the dome, a connecting piece (28) and an annular ring on the device (44) extending beyond the end of the connecting piece. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of an annular ring on the

device extending beyond the end of the connecting piece as disclosed by Starling in the container and device disclosed by Hembert and Brissier to protect the connecting piece and allow the container to stand on end without interference from the connecting piece.

Regarding claims 8 and 16, the device of claims 6 and 14 is disclosed as discussed in the preceding paragraph and Hembert further discloses that the connecting piece is threaded (25) at the free end and the device surrounds the connecting piece so an exterior face of the shell is set back from the end of the connecting piece and a tapped ring (24) is screwed onto the connecting piece to mount the device on the dome (Figure 1, column 2, lines 37-40).

Regarding claim 15, the container of claim 14 is disclosed and Hembert further discloses that the device is removably mounted to the container as discussed in the preceding paragraph.

5. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hembert (5,004,120), Brissier and Starling as applied to claim 9 in view of Dulisse et al (6,793,095) (Dulisse). Hembert, Brissier and Starling disclose the invention except for the synthetic resin being a thermoplastic resin.

Dulisse discloses a pressure tank with a dome end and a shell 42, Figures 4, 5 and 9) that goes over a portion of the dome end and is made from acrylonitrile-butadiene-styrene (abs) (column 4, lines 40-45). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a shell 42, Figures 4, 5 and 9) that goes over a portion of the dome end and is made from acrylonitrile-butadiene-styrene as disclosed by Dulisse in the container disclosed

by Hembert because it is known in the art to use abs with containers including pressure tanks for a shell over a portion of the dome end.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 3-9 and 11-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nathan Newhouse
Supervisory Patent Examiner
Art Unit 3727

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